



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

**[Docket No. 230216-0043]**

**RIN 0648-BL54**

### **Fisheries of the Exclusive Economic Zone off Alaska; Amendment 124 to the BSAI FMP for Groundfish and Amendment 112 to the GOA FMP for Groundfish to Revise IFQ Program Regulations**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement Amendment 124 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 112 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). First, this final rule amends regulations for the Individual Fishing Quota (IFQ) and Community Development Quota (CDQ) Programs for pot gear configurations, pot gear tending and retrieval requirements, pot limits, and associated recordkeeping and reporting requirements. These changes increase operational efficiency and flexibility for IFQ holders and CDQ groups. Second, this final rule authorizes jig gear as a legal gear type for harvesting sablefish IFQ and CDQ, increasing opportunities for entry-level participants. Third, this final rule temporarily removes the Adak community quota entity (CQE) residency requirement for a period of five years. These actions are intended to promote the goals and objectives of the Northern Pacific Halibut Act of 1982 (Halibut Act), the Magnuson-Stevens Fishery Conservation and

Management Act (Magnuson-Stevens Act), the BSAI FMP, GOA FMP, and other applicable laws.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Electronic copies of the Environmental Assessment and the Regulatory Impact Review (herein referred to as the “Analysis”) prepared for this final rule are available from *www.regulations.gov* or from the NMFS Alaska Region Web site at *https://www.fisheries.noaa.gov/region/alaska*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Assistant Regional Administrator, Sustainable Fisheries Division; and to *www.reginfo.gov/public/do/PRAMain*. Find the particular information collection by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Abby Jahn, 907-586-7228.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The North Pacific Fishery Management Council (Council) recommended Amendment 124 to the BSAI FMP and Amendment 112 to the GOA FMP to authorize the use of jig gear in the sablefish IFQ and CDQ programs. Amendment 124 would also remove the residency requirements for CQE. The Council also recommended changes to Federal regulations to increase operational efficiency and flexibility for IFQ holders and CDQ groups. Fishery Management Plan amendments and regulations developed by the Council may be implemented by NMFS only after approval by the Secretary of Commerce. Similarly, halibut fishery regulations developed by the Council may only be implemented by NMFS after approval of the Secretary of Commerce. NMFS published a Notice of Availability for Amendment 124 to the BSAI FMP and Amendment 112 to the

GOA FMP in the **Federal Register** on (87 FR 66125, November 2, 2022) with comments invited through January 3, 2023. NMFS published a proposed rule to implement Amendment 124 to the BSAI FMP and Amendment 112 to the GOA FMP (87 FR 71559, November 23, 2022) with comments invited through December 23, 2022.

This final rule implements provisions that affect IFQ halibut and IFQ sablefish in the GOA and IFQ and CDQ halibut and sablefish in the BSAI. The IFQ and CDQ fisheries are prosecuted in accordance with discrete catch limits and managed in separate geographic areas of harvest. Sablefish IFQ regulatory areas are defined and shown in Figure 14 to 50 CFR part 679 and section 1.3 of the Analysis. Halibut IFQ areas are consistent with International Pacific Halibut Commission (IPHC) regulatory areas and are defined and shown in Figure 15 to 50 CFR part 679 and section 1.3 of the Analysis. This final rule applies within sablefish IFQ areas in the GOA, specifically the Southeast Outside (SEO) District of the GOA, West Yakutat (WY) District of the GOA, Central GOA (CGOA), and Western GOA (WGOA). This final rule also applies to the halibut IFQ Area 4 in the BSAI.

The following sections summarize the IFQ, CDQ, and CQE Programs; modifications to Amendment 101 to the GOA FMP through this final rule; applicability of halibut retention; and authorized gear changes. Additional details are provided in the preamble to the proposed rule (87 FR 71559, November 23, 2022).

#### *IFQ, CDQ, and CQE Programs*

Commercial halibut and sablefish fisheries in the GOA and BSAI are managed primarily under the IFQ Program. The IFQ Program was implemented in 1995 (58 FR 59375, November 9, 1993) and is managed pursuant to regulations at 50 CFR parts 300 and 679 under the authority of section 5 of the Halibut Act, 16 U.S.C. 773c, and section 303(b) of the Magnuson-Stevens Act, 16 U.S.C. 1853(b). The IFQ Program allocates halibut and sablefish quota share (QS). QS allows the holder to harvest a specific

percentage of either the annual commercial catch limit in the halibut fishery or the total allowable catch (TAC) in the sablefish fishery.

The Western Alaska CDQ Program was implemented in 1992 (57 FR 54936, November 23, 1992). Subsequently, the Magnuson-Stevens Act was amended to include provisions specific to the CDQ Program. The purposes of the CDQ Program are: (1) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the BSAI management area; (2) to support economic development in western Alaska; (3) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and (4) to achieve sustainable and diversified local economies in western Alaska (16 U.S.C. 1855(i)(1)(A)).

The CQE Program was implemented in 2004 (69 FR 23681, April 30, 2004). The purpose of the CQE Program is to improve the ability for rural coastal communities to maintain long-term opportunities to access the halibut and sablefish resources for the GOA. The CQE Program was later amended under Amendment 102 to the BSAI FMP to include eligible communities such as Adak (79 FR 8870, February 14, 2014). The Adak CQE has purchased IFQ Program QS. Each year, a CQE may transfer (lease) its IFQ to one or more eligible individuals who must be onboard when the IFQ is fished and landed. Caps limit the amount of QS that can be held on behalf of each community and collectively for all communities. Limitations on leasing IFQ derived from QS held by a CQE were established for either eligible community residents of Adak or non-residents for a period of five years. The purpose of the time limitation was to explicitly tie the potential long-term benefits of QS held by an Aleutian Islands CQE to the residents of Adak. The Council, in part, recommended this action to remove the residency requirement for an additional period of five years with the intent of creating more opportunities for the Adak CQE to fully harvest its allocation.

Section 4.3 of the Analysis (available as indicated in the **ADDRESSES** section above) and the preamble to the proposed rule prepared for this action provide additional detail on the IFQ, CDQ, and CQE programs (87 FR 71559, November 23, 2022).

#### *Provisions of Amendment 101*

This final rule modifies provisions implemented under Amendment 101 to the GOA FMP (81 FR 95435, December 28, 2016). Amendment 101 authorized the use of longline pot gear in the GOA sablefish IFQ fishery; established pot limits, gear retrieval and tending requirements, and gear marking requirements; and required vessel operators to comply with current retention requirements under the IFQ Program. In recommending Amendment 101, the Council indicated its intent to monitor interactions between longline pot and hook-and-line gear in the GOA sablefish IFQ fishery and to determine whether changes to regulatory provisions were needed. In 2021, the Council reviewed provisions of the GOA sablefish IFQ fishery. The review and public testimony highlighted that some gear provisions such as pot limits, gear retrieval, and tending requirements implemented under Amendment 101 were either too restrictive or not meeting the original intent. As a result, the Council initiated analysis of the IFQ Omnibus action. Refer to sections 1.2 and 2.4 of the Analysis and to the preamble of the proposed rule for this action (87 FR 71559, November 23, 2022) for a further discussion on the development of and modifications to Amendment 101 through this final rule.

#### *Halibut Retention*

Sablefish IFQ fishermen who also hold halibut IFQ are required to retain halibut that are 32 inches or greater in length (legal size) harvested in the BSAI and GOA sablefish IFQ fishery, provided they have unused halibut IFQ. This regulation was implemented with the IFQ Program in 1995 and is intended to promote full utilization of halibut by reducing discards of halibut caught incidentally in the sablefish IFQ fishery. Many IFQ fishermen hold both sablefish and halibut IFQ, and the two species can

overlap in some fishing areas (58 FR 59375, November 9, 1993). In 2016, the IPHC recommended annual management measures that authorized longline pot gear as a legal gear type to retain halibut, provided NMFS implemented regulations to authorize longline pot gear in the sablefish IFQ fishery (81 FR 14000, March 16, 2016). In addition to authorizing longline pot gear in the sablefish IFQ fishery and the other provisions described in the preceding section, Amendment 101 also included halibut retention requirements that aligned Federal regulations with the provisions in the 2016 IPHC annual management measures. The purpose of requiring retention of incidentally caught halibut is to avoid discard, and therein discard mortality, of halibut.

As required by Federal regulations, each groundfish pot must include tunnel openings no wider than nine-inches to prevent certain non-target species, such as halibut, from entering the pot. Amendment 118 to the BSAI FMP (85 FR 840, January 8, 2020) implemented regulations requiring vessel operators to retain IFQ or CDQ halibut when using pot gear when an IFQ or CDQ permit holder on board the vessel has unused halibut IFQ or CDQ for the IFQ regulatory area fished in the IFQ vessel category. Amendment 118 also added an exception to the requirement for a tunnel opening of no wider than nine inches. The exception created by Amendment 118 applies to groundfish pots when there is halibut IFQ or CDQ on board, and when fishing for halibut or sablefish IFQ or CDQ in the BSAI. If the tunnel opening requirement remained in effect, the ability to harvest halibut IFQ or CDQ using pots would have been limited because the opening would be too small for legal halibut.

In developing this action, the Council and NMFS carefully considered existing regulations and retention requirements across the BSAI and GOA. This final rule adds an exception applicable to the GOA so that the requirement for a nine-inch maximum width tunnel opening does not apply to groundfish pots when a vessel begins a trip with

unfished halibut IFQ on board and when those vessels are fishing for IFQ halibut and IFQ sablefish.

#### *Authorized Gear*

This final rule provides additional options for the permissible placement of the biodegradable panel on collapsible slinky pots. This will allow vessel operators in the IFQ and CDQ fisheries to choose a configuration that works best for their operation. This final rule also authorizes jig gear in the GOA sablefish IFQ fisheries and the BSAI sablefish IFQ and CDQ fisheries. For additional discussion on the development of collapsible slinky pots, regulations for biodegradable panels, and jig gear, refer to the preamble to the proposed rule (87 FR 71559, November 23, 2022) and the Analysis.

#### **Need for Amendment 112, Amendment 124, and this Final Rule**

Amendment 112, Amendment 124, and this final rule are intended to increase operational efficiency and reduce administrative burden for IFQ Program and CDQ Program participants. First, this final rule expands available options for placement of a biodegradable panel specific to collapsible slinky pots used to fish for halibut IFQ or CDQ, or sablefish IFQ or CDQ. Second, this final rule creates an exception to the groundfish pot requirement for a nine-inch tunnel opening when a vessel begins a trip with unfished halibut IFQ on board and when those vessels are fishing for IFQ halibut and IFQ sablefish in the GOA. Third, this final rule revises regulatory specifications for gear marking, pot limits, gear tending, and gear retrieval to improve efficiency. Fourth, this final rule authorizes jig gear for the harvest of sablefish IFQ and CDQ in the BSAI and sablefish IFQ in the GOA in order to provide additional opportunity for entry-level participants. Fifth, this final rule removes the Adak residency requirement for a period of five years in order to provide opportunity for the Adak CQE to fully harvest its IFQ. Lastly, this final rule updates regulations for clarity by revising recordkeeping and reporting requirements for groundfish logbooks (including IFQ species) and improves

operational efficiency by modifying the IFQ Program medical transfer provision and allowing electronic submission for IFQ and CQE Program application forms.

### **The Final Rule**

This final rule revises regulations at 50 CFR part 679. This section describes the regulation changes to implement Amendment 124 to the BSAI FMP and Amendment 112 to the GOA FMP, as well as additional regulations recommended by the Council and/or proposed by NMFS.

#### *Collapsible Slinky Pot Exception*

Each groundfish pot must have a biodegradable panel that is at least 18 inches (45.72 cm) in length and use untreated cotton thread of no larger size than No. 30 (i.e., biodegradable twine). This final rule amends regulations at § 679.2 to allow for the biodegradable panel to be placed anywhere on the mesh of a collapsible slinky pot. Per the Council's recommendation, this regulation allows the door of the collapsible slinky pot to be wrapped with biodegradable twine. The biodegradable twine would not have to be 18 inches in length, but the door must be a minimum of 18 inches in diameter. This final rule adds the descriptors "rigid or collapsible" to the definition of "Pot gear" at § 679.2 in paragraph (15)(i) of the definition of "Authorized fishing gear" so that both types of pots are expressly included in this definition.

The changes above are limited to collapsible slinky pots in the IFQ and CDQ fisheries. The final rule does not affect groundfish pot gear used in non-IFQ or non-CDQ groundfish fisheries, nor rigid pot gear used in the IFQ and CDQ fisheries, which remain subject to the existing biodegradable panel placement requirements in the definition for "Authorized fishing gear" in paragraph (15)(i).

#### *Tunnel Opening Exception for the GOA*

Groundfish pots used in the sablefish IFQ fishery are required to have tunnel openings no wider than nine inches, which are intended prevent certain non-target



species, such as halibut, from entering the pot. An exception to this requirement already applies in the BSAI when fishery participants use groundfish pots when there is halibut IFQ or CDQ on board, and when fishing for halibut or sablefish IFQ or CDQ in the BSAI. . This final rule adds an exception in the GOA to the nine-inch tunnel opening requirement only where there is an IFQ or CDQ permit holder on board who has both unused halibut IFQ and unused sablefish IFQ. This allows IFQ fishery participants using longline pot gear in the GOA to select a tunnel opening of any size to more effectively fish for halibut IFQ while concurrently fishing for sablefish IFQ. Specifically, this final rule applies the exception at § 679.2 under the definition of “Authorized fishing gear” at paragraph (15)(iii) when there is IFQ halibut on board a vessel and the harvester is fishing for IFQ sablefish with longline pot gear in the GOA in accordance with § 679.42(l). No changes are required for the exception for the BSAI nor for the BSAI halibut and sablefish pot gear requirements described at § 679.42(m).

#### *Gear Specifications in the GOA*

This final rule revises regulations at § 679.24(a)(3) to modify the requirements for marking of longline pot gear deployed to harvest IFQ sablefish in the GOA. This change was recommended because elements of the existing marking requirements are unnecessary and burdensome for vessel operations. This final rule removes the requirement that each end of a set of longline pot gear has a cluster of four or more marker buoys, a flag mounted on a pole, and a radar reflector. However, the requirement that each end of a gear set has an attached hard buoy ball marked with the capital letters, “LP,” indicating longline pot gear, would remain so that gear visibility is maintained. Likewise, no changes are made to § 679.24(a)(1) or (2), which require all hook-and-line, longline pot, and pot-and-line marker buoys to be marked with the vessel’s Federal Fisheries Permit (FFP) number or Alaska Department of Fish & Game (ADF&G) vessel registration number.

This final rule modifies § 679.42(l)(5)(ii)(B) for longline pot gear limits in the WY District GOA. Namely, the maximum number of pots that a vessel operator may deploy would be increased from 120 to 200 when harvesting IFQ sablefish in the WY District of the GOA. This final rule does not modify the maximum number of pots permitted in the SEO District or CGOA and WGOA regulatory areas.

Additionally, this final rule modifies IFQ fisheries prohibitions at § 679.7(f) and gear tending and retrieval requirements at § 679.42(l)(5)(iii) for longline pot gear in the GOA. First, this final rule adds cross references to § 679.42(l)(5)(iii) in the prohibitions at § 679.7, including paragraph (f)(21) for catcher vessels (C/Vs) in the SEO District, paragraph (f)(22) for catcher/processors (C/Ps) in the SEO District, paragraph (f)(23) for C/Vs or C/Ps in the WY District and the Central GOA regulatory area, and paragraph (f)(24) for C/Vs or C/Ps in the WG regulatory area. These changes are made for consistency and ease of navigation between regulations for longline pot gear in the GOA and prohibitions for IFQ fisheries.

Second, this final rule modifies regulations at § 679.42(l)(5)(iii)(A) for C/V operators in the SEO District by replacing retrieval requirements (*i.e.*, retrieve and remove) with gear tending requirements (*i.e.*, redeploy or remove), removing any reference to IFQ landings, and modifying the timeline so that a vessel operator either tends or retrieves gear from the fishing grounds within five days of deploying the gear. Corresponding changes occur at § 679.7(f)(21) to update the relevant prohibition. For the Central GOA regulatory area, this final rule modifies the timeline so that a vessel operator either redeploys or removes gear from the fishing grounds within seven days of deploying the gear, adding paragraph § 679.42(l)(5)(iii)(E) to specify the revised gear tending requirements in a separate paragraph from the WY District. This final rule revises the corresponding prohibition at § 679.7(f)(23) for the Central GOA regulatory area and the WY District. The gear tending requirements included in this final rule promote

consistency in geographic areas where fishery participants may fish in multiple areas and result in a 5 day gear tending requirement applicable in WY District and SEO District and a 7 day gear tending requirement applicable in the Central GOA and Western GOA regulatory areas. This final rule does not modify the gear tending requirements for C/Ps in the SEO District, vessel operators in the WY District, or vessel operators in the WG regulatory area.

#### *Authorize Jig Gear*

This final rule revises regulations at §§ 679.2, 679.20, and 679.24 to authorize jig gear in the IFQ and CDQ sablefish fisheries in the BSAI and the IFQ sablefish fishery in the GOA consistent with Amendments 124 and 112. Jig gear is defined at § 679.2 in paragraph (8) of the definition for “Authorized fishing gear.” Authorization of jig gear for the aforementioned fisheries does not require jig gear definition changes. Instead, this final rule adds “jig gear” to the definition of “Fixed gear,” in paragraph (4)(ii) under “Authorized fishing gear” at § 679.2, to specify that jig gear may be used to harvest sablefish IFQ and CDQ from any BSAI reporting area. No GOA-specific changes are required. The definition of “Fixed gear,” defined at § 679.2 in paragraph (4)(i) under the definition “Authorized fishing gear,” currently includes all “longline gear” used to harvest sablefish in the GOA. “Longline gear” is already defined to include “jig gear.”

This final rule revises regulations at § 679.20(a)(4)(iii)(A) for the Bering Sea subarea, § 679.20(a)(4)(iv)(A) for the Aleutian Islands subarea, and § 679.20(b)(1)(i) for the nonspecified reserve. This change replaces the phrase “hook-and-line and pot gear” with “fixed gear” for consistency with the definition of “Fixed gear” defined at § 679.2 in paragraph (4)(ii) of the definition “Authorized fishing gear.” This change is associated with the final rule’s modification of § 679.2’s definition of “Authorized fishing gear” to include jig gear. This final rule does not change the percent of the TAC allocated to the sablefish IFQ fishery in the BSAI. NMFS will continue to allocate 50 percent of the

sablefish TAC in the Bering Sea subarea and 75 percent of the sablefish TAC in the Aleutian Islands subarea to the sablefish IFQ fishery.

This final rule adds “jig gear” to § 679.24 where gear restrictions for sablefish are found in the regulations. Specifically, this final rule adds “jig gear” to § 679.24(c)(2)(i)(A) and (B) so that jig gear is an authorized gear type for the Eastern GOA regulatory area and permitted when directed fishing for IFQ sablefish. This final rule adds “jig gear” to § 679.24(c)(3) and (4) so that sablefish is not considered a prohibited species for vessel operators using jig gear in the Central GOA, Western GOA, or BSAI. This final rule also makes two grammatical corrections to the list of permissible gear types in the Eastern GOA regulatory area at § 679.24(c)(2)(i)(A) and (B) and § 679.24(c)(4), changing “and” to “or” to clarify that at least one of the listed gear types must be used but that all gear types need not be used simultaneously.

#### *Adak Residency Requirement*

This final rule revises regulations at § 679.42 for sablefish and halibut QS use specific to eligible community residents of Adak, Alaska. Specifically, this final rule changes the date specified at § 679.42(e)(8)(ii) and (f)(7)(ii) from March 17, 2019, to five years after the effective date of this final rule. The regulatory changes at § 679.42(e)(8)(ii) apply only to a CQE in the Aleutian Islands subarea for sablefish QS. The regulatory changes at § 679.42(f)(7)(ii) apply only to a CQE in IFQ regulatory Area 4B for halibut QS.

#### *Other Regulatory Provisions*

This final rule modifies § 679.21(a)(5), which currently references sablefish as a prohibited species via a cross-reference to § 679.24(c)(2)(ii). Because § 679.24(c)(2)(ii) pertains only to the Eastern GOA regulatory area, the final rule changes the cross reference to § 679.24(c)(2) to clarify that sablefish is a prohibited species for the western GOA, central GOA, and the BSAI, as well as the Eastern GOA, per § 679.24(c)(2)

through (4). This fix does not modify prohibited species bycatch management or gear restrictions for sablefish but rather corrects the cross reference to include all four areas.

This final rule also revises regulations at § 679.42 to exclude medical transfers approved in 2020, 2021, or 2022 from the use restriction detailed at § 679.42(d)(2)(iv)(C). Specifically, this final rule adds paragraph (d)(2)(iv)(C)(*I*), stating, “A medical transfer approved in 2020, 2021, or 2022 does not count toward the restriction detailed in paragraph (d)(2)(iv)(C) of this section.” Furthermore, this final rule adds, “Except as provided for in paragraph (d)(2)(iv)(C)(*I*) of this section,” to the beginning of paragraph (d)(2)(iv)(C) to link the exception to new paragraph (d)(2)(iv)(C)(*I*).

Additionally, this final rule revises regulations at § 679.5 specific to the longline and pot gear catcher vessel daily fishing logbook (DFL) and the C/P daily cumulative production logbook (DCPL). A sentence would be added at § 679.5(c)(1)(ii), (c)(3)(i)(A)(*I*), (c)(3)(i)(B)(*I*), and (c)(3)(iv)(A)(2) to clarify that the same logbook may be used for different gear types, provided different gear types are recorded on separate pages. This final rule does not change when the logbook is required however, it does provide additional flexibility to a vessel operator that must record fishing activity in a logbook. The purpose of these regulatory changes is to provide clear direction to vessel operators as to how these logbooks may be used. The changes are specific to groundfish fisheries for C/Vs greater than 60 ft length overall (LOA) using longline or pot gear, and IFQ or CDQ halibut or IFQ or CDQ sablefish fisheries for C/Vs less than 60 ft LOA using longline pot gear or pot gear.

The final rule revises regulations relevant to the CQE Program at §§ 679.4, 679.41, and 679.5. Those regulations require CQEs to submit certain information to the Regional Administrator and imply that information must be submitted by mail because only a mailing address is listed. This final rule revises §§ 679.4(k)(10)(vi)(A) and (D),

679.41(l)(3), and 679.5(t)(2) to remove the address for the Regional Administrator and change the word “sent” to “submitted” in § 679.4(k)(10)(vi)(D) to allow for additional submission methods. As a result, no submission method would be included in regulations and, instead, NMFS would provide this information on forms and on the NMFS Alaska Region Web site at <https://www.fisheries.noaa.gov/region/alaska>. The purpose of these changes is to provide additional methods for the public to submit information as the agency moves toward electronic submission.

### **Changes From Proposed to Final Rule**

There is one change made to the regulations from the proposed to final rules to replace the phrase “hook-and-line and pot gear” with “fixed gear” at 679.20(b)(1)(ii)(B) for consistency with the definition of “Fixed gear” in paragraph (4)(ii) of the definition of “Authorized fishing gear” at § 679.2. This conforming change was inadvertently left out of the proposed rule. Based on a comment received, the public reporting burden estimate for gear marking requirements is increased. This change is explained in the discussion of OMB Control Number 0648-0353 below.

### **Comments and Responses**

NMFS received two comment letters from a member of the public and a fishery participant, respectively, on the proposed rule, FMP Amendments, and information collection requirements. NMFS summarized and responded to these two unique comments below.

*Comment 1:* A commenter expressed support for the increased use of jig gear, and the commenter requested changes to this action to include requiring the use of jig gear and reducing the use of net gear in order to reduce the likelihood of overfishing and to support sustainable harvests.

*Response:* Amendment 124, Amendment 112, and this final rule are intended to increase operational efficiency and reduce administrative burden for IFQ Program and

CDQ Program participants consistent with National Standards 5 and 7. This action authorizes jig gear as a legal gear type for harvesting sablefish IFQ in the BSAI and GOA and sablefish CDQ in the BSAI to increase access to entry-level fishing opportunities. The Council did not consider or recommend requiring the use of jig gear, and this final rule does not require the use of jig gear. This action also does not modify harvest levels, and the flexibilities provided by the changes to authorized gear types, pot gear configuration, gear retrieval, pot limits, and biodegradable panel requirements are small changes that do not change the nature of the IFQ Program or CDQ Program fisheries. The potential beneficial and adverse environmental effects of this action are described in Section 5 of the Analysis prepared for this action (See **ADDRESSES**). The potential effects of the action are expected to be insignificant on fishing mortality, stock biomass, and the spatial and temporal distribution of the target stocks. Requirements applicable to fishing with trawl or other net gear are outside the scope of this action. NMFS manages commercial, recreational, and subsistence fisheries consistent with the provisions of the Magnuson-Stevens Act and other applicable law.

*Comment 2:* A commenter provided information about the estimated information collection burden of gear marking requirements included in this final rule. The commenter stated that approximately 20 percent of their buoys need to be repainted annually resulting in an annual cost of \$100 for supplies and approximately 30 minutes per buoy.

*Response:* Based on this comment, NMFS has updated the estimated public reporting burden for gear marking requirements, as summarized under the heading “OMB Control Number 0648-0353” below.

### **Classification**

Pursuant to section 304(b)(3) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with

the BSAI FMP and the GOA FMP, Amendments 124 and 112 to the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law. Pursuant to Magnuson-Stevens Act section 305(d), this action is necessary to carry out the amendments to the BSAI FMP and the GOA FMP. NMFS is issuing specific regulations contained this rule pursuant to 305(d) of the Magnuson-Stevens Act to carry out amendments to the BSAI FMP and the GOA FMP. These changes are necessary to update recordkeeping and reporting requirements for groundfish logbooks (including IFQ species), improve operational efficiency by modifying the IFQ Program medical transfer provision, and allow electronic submission for IFQ and CQE Program application forms.

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This final action is consistent with the Council's authority under the Halibut Act to implement management measures for the halibut IFQ fishery and does not conflict with IPHC regulations.

#### *Administrative Procedure Act*

Because this rule relieves a restriction by modifying specific provisions of the IFQ and CDQ Programs to reduce restrictions and promote increased operational efficiency and flexibility fishery participants, a 30-day delay in effective date is not required pursuant to 5 U.S.C. 553(d)(1). This action authorizes the use of jig gear in the sablefish IFQ and CDQ Programs and modifies pot gear configurations, pot gear tending and retrieval requirements, pot limits, and associated recordkeeping and reporting requirements. The collapsible slinky pot exception provides additional flexibility to vessel operators using longline pot gear to place the biodegradable anywhere on the mesh



of a collapsible slinky pot. The changes to implement the tunnel opening exception in the GOA provides additional flexibility that allows IFQ fishery participants using longline pot gear in the GOA to select a tunnel opening of any size to more effectively fish for halibut IFQ while concurrently fishing for sablefish IFQ. This final rule loosens gear specifications in the GOA by removing specific gear marking requirements for vessels using longline pot gear, increasing the maximum number of pots that a vessel operator may deploy from 120 to 200 in the WY District of the GOA, removes the gear retrieval requirement for C/V operators in the SEO District and replaces it with a less restrictive gear tending requirement, and loosens the gear tending requirement in the Central GOA regulatory area from 5 days to 7 days. This final rule adds jig gear to the list of authorized gear in the IFQ and CDQ sablefish fisheries in the BSAI and the IFQ sablefish fishery in the GOA to provide an additional gear type for vessel operators to use. This final rule removes the Adak residency requirement for a period of five years in order to provide opportunity for the Adak CQE to fully harvest its IFQ. The additional regulatory provisions included in this final rule make minor changes to cross references and CQE form submission instructions to promote clarity to the regulated public, adds an exception to the IFQ medical transfer restriction that allows fishery participants additional flexibility to use medical transfers in future years, and modifies recordkeeping and reporting regulations to provide vessel operators using two gear types the option to record fishing activity in one DFL rather than two.

#### *Executive Order 12866*

This final rule has been determined to be not significant for purposes of Executive Order 12866.

An Environmental Assessment and Regulatory Impact Review (“Analysis”) was prepared for Amendment 124, Amendment 112, and this final rule. The AA concluded that there will be no significant impact on the human environment as a result of this rule.

A copy of the Analysis is available from NMFS as indicated in the **ADDRESSES** section above.

#### *Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

#### *Information Collection Requirements*

This final rule contains collection of information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This final rule revises existing collection-of-information requirements for OMB Control Number 0648-0665 (Alaska CQE Program) and revises and extends, by 3 years, the existing collection-of-information requirements for 0648-0353 (Alaska Region Gear Identification Requirements). The existing collection-of-information requirements continue to apply under 0648-0213 (Alaska Region Logbook and Activity Family of Forms); 0648-0272 (Alaska Pacific Halibut & Sablefish Fisheries: IFQ); and 0648-0515 (Alaska Interagency Electronic Reporting System). The approved changes to the collections are described below. The public reporting burdens for the information collection requirements provided below include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

#### *OMB Control Number 0648-0353*

NMFS revises and extends by 3 years the existing requirements for OMB Control Number 0648-0353. This collection contains gear identification requirements for the

groundfish fisheries in the Exclusive Economic Zone off Alaska. This collection is revised to reduce the number of marker buoys required for longline pot gear deployed to fish IFQ sablefish in the GOA because this final rule removes requirements for the vessel owner to use four or more marker buoys, a flag mounted on a pole, and a radar reflector to mark each end of a longline set. Removing these requirements decreases the burden for harvesters and increases operational efficiency. The number of respondents is not changed. Based on a comment received, the public reporting burden is increased to 30 minutes per individual response to collect the information and paint it on a buoy, and the annual cost of supplies to paint the buoys is increased to \$100 per respondent.

*OMB Control Number 0648-0665*

This information collection is revised to modify the text on the Application for CQE to Transfer IFQ to an Eligible Community Resident or Non-Resident because this final rule removes the residency requirement for the Adak CQE for five years.

This final rule revises regulations for the CQE annual report, the CQE License Limitation Program (LLP) authorization letter, the Application for Nonprofit Corporation to be Designated as a CQE, and the Application for a CQE to Receive a Non-trawl Groundfish LLP License to provide additional methods for the public to submit the information as the agency moves toward electronic submission.

These revisions do not affect the number of respondents, anticipated responses, or burden hours or costs. The public reporting burden per individual response is estimated to average 2 hours for the Application for CQE to Transfer IFQ to an Eligible Community Resident or Non-Resident, 200 hours for the Application for Nonprofit Corporation to be Designated as a CQE, 40 hours for the CQE Annual Report, 20 hours for the Application for a CQE to Receive a Non-trawl Groundfish LLP License, and 1 hour for the CQE License Limitation Program Authorization letter.

*Public Comment*

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which help us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for these information collections should be submitted on the following website: [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find the particular information collection by using the search function and entering either the title of the collection or the OMB Control Number.

Notwithstanding any other provisions of law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at <https://www.reginfo.gov/public/do/PRASearch>.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements

Date: February 16, 2023.

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Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

**PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF  
ALASKA**

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447;  
Pub. L. 111-281.

2. In § 679.2, amend the definition for “Authorized fishing gear” by revising paragraph (4)(ii) and the introductory text of paragraph (15), adding paragraphs (15)(i)(A) and (B), and revising paragraph (15)(iii) to read as follows:

**§ 679.2 Definitions.**

\* \* \* \* \*

*Authorized fishing gear* \* \* \*

(4) \* \* \*

(ii) For sablefish harvested from any BSAI reporting area, all hook-and-line gear, jig gear, and all pot gear.

\* \* \* \* \*

(15) *Pot gear* means a portable structure, rigid or collapsible, that is designed and constructed to capture and retain fish alive in the water. This gear type includes longline pot and pot-and-line gear. Each groundfish pot must comply with the following:

(i) \* \* \*

(A) *Collapsible pot exception.* A collapsible pot (e.g., slinky pot) used to fish for halibut IFQ or CDQ, or sablefish IFQ or CDQ, in accordance with paragraph (4) of this definition, is exempt from the biodegradable panel placement requirements described in paragraph (15)(i) of this definition. Instead, a collapsible pot must have either a biodegradable panel placed anywhere on the mesh of the collapsible pot, which is at least 18 inches (45.72 cm) in length and is made from untreated cotton thread of no larger size

than No. 30, or one door on the pot must measure at least 18 inches (45.72 cm) in diameter and be wrapped with untreated cotton thread of no larger size than No. 30.

(B) [Reserved]

\* \* \* \* \*

(iii) *Halibut retention exception.* If halibut retention is required when harvesting halibut from any IFQ regulatory area in the BSAI or GOA, the requirements to comply with a tunnel opening for pots when fishing for IFQ or CDQ halibut or IFQ or CDQ sablefish in the BSAI in accordance with § 679.42(m), or for IFQ sablefish in the GOA in accordance with § 679.42(l), do not apply.

\* \* \* \* \*

#### **§ 679.4 [Amended]**

3. Amend § 679.4 as follows:

a. In paragraph (k)(10)(vi)(A), remove the address text, “, NMFS, P.O. Box 21668, Juneau, AK 99802”; and

b. In paragraph (k)(10)(vi)(D), remove the address text, “sent to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802” and add in its place, “submitted to the Regional Administrator”.

4. Amend § 679.5 as follows:

a. Revise paragraphs (c)(1)(ii), (c)(3)(i)(A)(1), (c)(3)(i)(B)(1), and (c)(3)(iv)(A)(2); and

b. In paragraph (t)(2), remove the address text, “National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802”. The revisions read as follows:

#### **§ 679.5 Recordkeeping and reporting (R&R).**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) *Use of two or more vessel logbooks of different gear types.* If two or more different gear types are used onboard a vessel in a fishing year, the operator(s) of this vessel may use the same vessel logbooks for different gear types, provided different gear types are recorded on separate pages.

\* \* \* \* \*

(3) \* \* \*

(i) \* \* \*

(A) \* \* \*

(I) Except as described in paragraph (f)(1)(i) of this section, the operator of a catcher vessel 60 ft (18.3 m) or greater LOA, that is required to have an FFP under § 679.4(b) and that is using longline or pot gear to harvest groundfish, must maintain a longline and pot gear DFL and may use the same logbook for longline and pot gear, provided different gear types are recorded on separate pages.

\* \* \* \* \*

(B) \* \* \*

(I) The operator of a catcher vessel less than 60 ft (18.3 m) LOA, using longline pot gear to harvest IFQ sablefish or IFQ halibut in the GOA, or using pot gear to harvest IFQ or CDQ halibut or IFQ or CDQ sablefish in the BSAI, must maintain a longline and pot gear DFL according to paragraph (c)(3)(iv)(A)(2) of this section and may use the same logbook for longline and pot gear, provided different gear types are recorded on separate pages.

\* \* \* \* \*

(iv) \* \* \*

(A) \* \* \*

(2) If a catcher vessel identified in paragraph (c)(3)(i)(A)(I) or (c)(3)(i)(B)(I) through (3) of this section is active, the operator must record in the longline and pot gear DFL, for one or more days on each logsheet, the information listed in paragraphs (c)(3)(v), (vi), (viii), and (x) of this section and may use the same logbook for longline and pot gear, provided different gear types are recorded on separate pages.

\* \* \* \* \*

5. In § 679.7, revise paragraphs (f)(21) through (24) to read as follows:

**§ 679.7 Prohibitions.**

\* \* \* \* \*

(f) \* \* \*

(21) Fail to redeploy or remove from the fishing grounds all deployed longline pot gear that is assigned to, and used by, a catcher vessel within five days of deploying the gear to fish IFQ sablefish in the Southeast Outside District of the GOA in accordance with § 679.42(l)(5)(iii)(A).

(22) Fail to redeploy or remove from the fishing grounds all deployed longline pot gear that is assigned to, and used by, a catcher/processor within five days of deploying the gear to fish IFQ sablefish in the Southeast Outside District of the GOA in accordance with § 679.42(l)(5)(iii)(B).

(23) Fail to redeploy or remove from the fishing grounds all deployed longline pot gear that is assigned to, and used by, a catcher vessel or a catcher/processor within five days of deploying the gear to fish IFQ sablefish in the West Yakutat District of the GOA, and within seven days of deploying the gear to fish IFQ sablefish in the Central GOA regulatory area, in accordance with § 679.42(l)(5)(iii)(C) and (E).

(24) Fail to redeploy or remove from the fishing grounds all deployed longline pot gear that is assigned to, and used by, a catcher vessel or a catcher/processor within seven



days of deploying the gear to fish IFQ sablefish in the Western GOA regulatory area in accordance with § 679.42(l)(5)(iii)(D).

\* \* \* \* \*

6. In § 679.20, revise paragraphs (a)(4)(iii)(A), (a)(4)(iv)(A), (b)(1)(i), and (b)(1)(ii)(B) to read as follows:

**§ 679.20 General limitations.**

\* \* \* \* \*

(a) \* \* \*

(4) \* \* \*

(iii) \* \* \*

(A) *Fixed gear*. Vessels in the Bering Sea subarea using fixed gear will be allocated 50 percent of each TAC for sablefish.

\* \* \* \* \*

(iv) \* \* \*

(A) *Fixed gear*. Vessels in the Aleutian Islands subarea using fixed gear will be allocated 75 percent of each TAC for sablefish.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *Nonspecified reserve*. Fifteen percent of the BSAI TAC for each target species, except pollock, the fixed gear allocation for sablefish, and the Amendment 80 species, which includes Pacific cod, is automatically placed in the nonspecified reserve before allocation to any sector. The remaining 85 percent of each TAC is apportioned to the initial TAC for each target species that contributed to the nonspecified reserve. The nonspecified reserve is not designated by species or species group. Any amount of the nonspecified reserve may be apportioned to target species that contributed to the

nonspecified reserve, provided that such apportionments are consistent with paragraph (a)(3) of this section and do not result in overfishing of a target species.

(ii) \* \* \*

(B) *Fixed gear sablefish CDQ reserves.* Twenty percent of the fixed gear allocation of sablefish established under paragraphs (a)(4)(iii)(A) and (a)(4)(iv)(A) of this section will be allocated to a CDQ reserve for each subarea.

\* \* \* \* \*

7. In § 679.21, revise paragraph (a)(5) to read as follows:

**§ 679.21 Prohibited species bycatch management.**

(a) \* \* \*

(5) *Sablefish as a prohibited species.* (See § 679.24(c) for gear restrictions for sablefish.)

\* \* \* \* \*

8. In § 679.24, revise paragraphs (a)(3), (c)(2)(i)(A) and (B), and (c)(3) and (4) to read as follows:

**§ 679.24 Gear limitations.**

\* \* \* \* \*

(a) \* \* \*

(3) Each end of a set of longline pot gear deployed to fish IFQ sablefish in the GOA must have one hard buoy ball attached and marked with the capital letters “LP” in accordance with paragraph (a)(2) of this section.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) No person may use any gear other than hook-and-line, longline pot, jig, or trawl gear when fishing for sablefish in the Eastern GOA regulatory area.

(B) No person may use any gear other than hook-and-line gear, longline pot gear, or jig gear to engage in directed fishing for IFQ sablefish.

\* \* \* \* \*

(3) *Central and Western GOA regulatory areas; sablefish as prohibited species.* Operators of vessels using gear types other than hook-and-line, longline pot, jig, or trawl gear in the Central and Western GOA regulatory areas must treat any catch of sablefish in these areas as a prohibited species as provided by § 679.21(a).

(4) *BSAI.* Operators of vessels using gear types other than hook-and-line, longline pot, pot-and-line, jig, or trawl gear in the BSAI must treat sablefish as a prohibited species as provided by § 679.21(a).

\* \* \* \* \*

#### **§ 679.41 [Amended]**

9. In § 679.41, in the introductory text of paragraph (l)(3), remove the two references to the address text “, NMFS, P.O. Box 21668, Juneau, AK 99802.”

10. In § 679.42, revise paragraphs (d)(2)(iv)(C), (e)(8)(ii), (f)(7)(ii), (l)(5)(ii)(B), and (l)(5)(iii)(A) and (C); and add paragraph (l)(5)(iii)(E), to read as follows:

#### **§ 679.42 Limitations on use of QS and IFQ.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(iv) \* \* \*

(C) Except as provided for in paragraph (d)(2)(iv)(C)(1) of this section, NMFS will not approve a medical transfer if the applicant has received a medical transfer in any 3 of the previous 7 calendar years for any medical reason.

(1) Medical transfers approved in 2020, 2021, or 2022 do not count toward the restriction detailed in paragraph (d)(2)(iv)(C) of this section.

(2) [Reserved]

\* \* \* \* \*

(e) \* \* \*

(8) \* \* \*

(ii) In the Aleutian Islands subarea may lease the IFQ resulting from that QS to any person who has received an approved Application for Eligibility as described in § 679.41(d) prior to February 28, 2028, but only to an eligible community resident of Adak, AK, after February 28, 2028.

\* \* \* \* \*

(f) \* \* \*

(7) \* \* \*

(ii) In IFQ regulatory Area 4B may lease the IFQ resulting from that QS to any person who has received an approved Application for Eligibility as described in § 679.41(d) prior to February 28, 2028 but only to an eligible community resident of Adak, AK, after February 28, 2028.

\* \* \* \* \*

(1) \* \* \*

(5) \* \* \*

(ii) \* \* \*

(B) In the West Yakutat District of the GOA, a vessel operator is limited to deploying a maximum of 200 pots.

\* \* \* \* \*

(iii) \* \* \*

(A) In the Southeast Outside District of the GOA, a catcher vessel operator must redeploy or remove from the fishing grounds all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish within five days of deploying the gear.

\* \* \* \* \*

(C) In the West Yakutat District of the GOA, a vessel operator must redeploy or remove from the fishing grounds all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish within five days of deploying the gear.

\* \* \* \* \*

(E) In the Central GOA regulatory area, a vessel operator must redeploy or remove from the fishing grounds all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish within seven days of deploying the gear.

\* \* \* \* \*

[FR Doc. 2023-03669 Filed: 2/24/2023 8:45 am; Publication Date: 2/27/2023]